

Message Text

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NYYHYHYHYHYL/ARA:MGKOZAK/ARA/PAN:SMBELL

APPROVED BY ARA:WBOWDLER

S/FW-COA:RTLEROY (SUB)

L/OES:TLEITZELL (DRAFT)

L/ARA - MR. GANTZ

S/S - MR. LUERS

AA/LA - MR. LEVY

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P 132337Z JUN 74

FM SECSTATE WASHDC

TO AMEMBASSY PANAMA PRIORITY

C O N F I D E N T I A L STATE 126645

EXDIS

E.O. 11652: GDS

TAGS: EFIS PN

SUBJECT: THE RAFAELLO SEIZURE

REF: PANAMA 3158

1. THE DEPARTMENT APPRECIATES THE EXCELLENT REPORTING ON THE CURRENT STATE OF PLAY REGARDING THE SEIZURE AND THE ASSESSMENT OF THE POTENTIAL IMPACT OF THE SEVERAL COURSES OF ACTION OPEN TO THE UNITED STATES.

2. WE AGREE WITH THE RECOMMENDATION THAT, ON BALANCE, WE SHOULD CONTINUE TO PURSUE THE COURSE OF SEEKING WAIVERS OF THE LEGISLATIVE SANCTIONS. INVOCATION OF SANCTIONS WOULD BE LIKELY TO AFFECT ADVERSELY, TO AN UNACCEPTABLE DEGREE, THE CLIMATE FOR THE CONTINUATION OF SATISFACTORY TREATY NEGOTIATIONS WITH PANAMA.

3. WE BELIEVE, HOWEVER, THAT THE COMPOSITE OF THE ASSURANCES THUS FAR PROVIDED BY SENIOR PANAMANIAN OFFICIALS WOULD NOT BE SUFFICIENT TO SERVE AS A BASIS FOR
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A WAIVER UNDER THE FOREIGN MILITARY SALES ACT AND THE

REQUIRED REPORT TO THE CONGRESS. (WE WOULD PREFER NOT TO SEEK WAIVERS ON THE ALTERNATIVE, "IMPORTANT TO THE SECURITY OF THE US" GROUNDS, AND SHOULD BE CAREFUL NOT TO RAISE THIS POSSIBLE ALTERNATIVE WITH THE PANAMANIAN.) RECOGNIZING THE DIFFICULTY FOR PANAMA TO GIVE MORE FORMAL ASSURANCES, WE THINK IT MAY BE POSSIBLE TO OBTAIN ADEQUATE INFORMAL ASSURANCES THROUGH AN APPROACH WHICH HAS BEEN PURSUED SUCCESSFULLY IN ANOTHER SITUATION IN LATIN AMERICA WITH ANALOGOUS CIRCUMSTANCES.

4. UNDER SUCH AN APPROACH YOU WOULD COMMUNICATE WITH A PANAMANIAN OFFICIAL WHO COULD SPEAK SPECIFICALLY AND AUTHORITATIVELY FOR THE GOVERNMENT OF PANAMA ON THIS ISSUE AND SAY THAT THE ASSURANCES YOU HAVE THUS FAR RECEIVED ARE WELCOME, AND REMOVE DOUBTS RESPECTING PANAMA'S INTENTIONS. IF WE ARE TO SEEK AND OBTAIN THE NECESSARY WAIVERS, HOWEVER, IT WILL BE NECESSARY TO REPORT THOSE ASSURANCES TO DESIGNATED CONGRESSIONAL REPRESENTATIVES. YOU WOULD PROCEED TO INQUIRE WHETHER THAT OFFICIAL "WOULD HAVE ANY OBJECTION" IF THE EXECUTIVE BRANCH WERE TO INFORM THE SPEAKER OF THE HOUSE AND THE CHAIRMAN OF THE SFRC - ON A STRICTLY CONFIDENTIAL BASIS - AS FOLLOWS: THE DEPARTMENT OF STATE HAS CONSULTED WITH A SENIOR OFFICIAL OF THE GOVERNMENT OF PANAMA, AND HAS BEEN ADVISED (1) THAT THE SEIZURE OF THE RAFFAELLO DID NOT HAVE THE PRIOR APPROVAL OF THE GOVERNMENT OF PANAMA, BUT WAS AN ACT CARRIED OUT BY THE PATROL BOAT COMMANDER ON HIS OWN INITIATIVE; (2) THAT THE GOVERNMENT OF PANAMA IS AWARE OF THE PROVISIONS OF UNITED STATES LEGISLATION RESPECTING SUCH SEIZURES; (3) THAT IT IS NOT THE POLICY OR INTENT OF THE GOVERNMENT OF PANAMA TO EMPLOY THE SEIZURE OF UNITED STATES FISHING VESSELS AS A MEANS TO ENFORCE PANAMA'S CLAIM TO A 200-MILE TERRITORIAL SEA; AND (4) THAT, IN LIGHT OF THE FOREGOING, THE UNITED STATES GOVERNMENT DOES NOT ANTICIPATE FUTURE SEIZURES.

5. UNDER THIS APPROACH, YOU WOULD LEAVE WITH THE PANAMANIAN OFFICIAL AN INFORMAL LISTING, IN ENGLISH AND SPANISH, OF THE POINTS WE WOULD MAKE IN THE CONFIDENTIAL REPORT TO THE SPEAKER AND THE SFRC. OR, IF YOU WOULD CONFIDENTIAL

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PREFER, YOU COULD MAKE THE POINTS ORALLY AND THEN PREPARE A DETAILED MEMORANDUM OF CONVERSATION.

6. YOU WOULD ELICIT THE REACTION OF THE OFFICIAL AND REPORT IT IN DETAIL. THE IDEAL REACTION WOULD BE A SIMPLE STATEMENT THAT THE OFFICIAL WOULD HAVE NO OBJECTIONS TO OUR MAKING SUCH A CONFIDENTIAL REPORT. IT WOULD ALSO BE SATISFACTORY IF THE OFFICIAL WERE TO

INDICATE MERELY THAT THE GOVERNMENT OF PANAMA WOULD NOT CONTRADICT SUCH A REPORT WERE THE GOVERNMENT TO BE QUERIED ON THE SUBJECT.

7. IN THE COURSE OF YOUR DEMARCHE YOU WOULD INDICATE TO THE OFFICIAL THAT THIS APPROACH SEEMS THE BEST SUITED FOR BOTH PARTIES IN THE CIRCUMSTANCES, BUT THAT IT CLEARLY INVOLVES OUR SIGNIFICANT RELIANCE ON PANAMA'S ASSURANCES IN SEEKING THE WAIVERS. SISCO

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